

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 1.12.2006

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.7803 of 2003

K.Rajammal

.. Petitioner

vs.

1. Joint Registrar of Cooperative Societies,
Erode Region, Erode.
2. Deputy Registrar of Cooperative Societies,
Gobichettipalayam, Erode District.
3. Special Officer, Sathyamangalam Tribal
Large Area Multi-Purpose Cooperative Society,
Sathyamangalam 638 402.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India as stated therein.

For petitioner : Mr.S.Kamadevan
For respondents : Mr.C.Thirumaran
Government Advocate
for R1 and R2
Mr.S.V.Duraisolaimalai for R3

सत्यमेव जयते
O R D E R

The writ petition has been filed for the issuance of a writ of mandamus to direct the respondents to pay the entire arrears of salary payable to the petitioner for the post of Typist in the third respondent Society from the month of April, 1997, with interest at the rate of 12% p.a., and further to direct the respondents to continue to pay the salary, without break.

The brief facts of the case, as stated by the petitioner, are as follows:

2. The petitioner had been appointed as a Typist in the third respondent Society, on 12.9.1987. Her services were regularised in the post of typist, with effect from 16.11.1988. While so, however, the petitioner's salary has not been disbursed from the month of April, 1997. On enquiry, she was informed that sufficient funds were not available with the third respondent Society for the payment of her salary and that the District Central Cooperative Bank concerned was not releasing the funds to meet the liabilities of the third respondent Society. However, for some of the months, her salary has been paid. But, it was not on a regular basis. In spite of the third respondent Society having huge amount of transactions and earning profits, it has been avoiding the payment of salary due to the petitioner as well as for the other employees.

3. The petitioner has been working in a sanctioned post in the third respondent Society within the approved cadre strength and her services were also regularised in the year, 1988. In spite of the several representations made by the petitioner, the third respondent Society has denied the petitioner's salary, due to her, for several years. The petitioner has incurred heavy medical expenses due to her heart problem and therefore, she was in desperate need of financial assistance. Therefore, she has preferred the present writ petition praying for a direction to the third respondent Society to pay the salary due to her, with interest.

4. In the counter-affidavit filed on behalf of the third respondent, it has been stated that the third respondent Society has been incorporated to serve its members, who are basically Hill Tribes of the Sathyamangalam Division. Due to various factors, the third respondent Society has been running at a loss and the accumulated loss had increased thereafter and it has come to the stage of liquidation. Therefore, a decree was passed against the third respondent Society by the Central Co-operative Bank, Erode, on 29.1.1997, for a sum of Rs.83.64 lakhs, by the proceedings of the Deputy Registrar of the Cooperative Society, Gobichettipalayam, the second respondent herein, in R.C.No. dated 29.1.1997. Since the loan amount had grown up to Rs.1.50 crores, the Central Cooperative Bank had not given any financial assistance to the third respondent Society. Therefore, to tide over the situation, the Special Officer of the third respondent Society had instructed his employees to collect the amount, which were due from the sundry debtors and from the members of the third respondent Society. However, the employees of the Society had not taken any effort in the collection of the money. This has caused further loss to the third respondent Society. Further, the sundry creditors and the deposit holders of the Society had filed civil suits before the local Courts and in the Consumer Forum for the recovery of the amount due to them from the third respondent Society. In such circumstances, the third respondent Society has been recommended for liquidation and it has been open to the petitioner as well as the other creditors to initiate appropriate action in the manner known to law to recover the amount due to them, if any.

5. On hearing the rival contentions of the learned counsel appearing for the petitioner as well as for the respondents and on a perusal of the records placed before this Court, it is found that the third respondent Society has suffered heavy losses due to various reasons. By the proceedings of the Special Officer, dated 3.1.2006, addressed to the first and second respondents herein, the third respondent Society has been recommended for liquidation, based on the communication Na.Ka.15145/2003/b3, dated 19.12.2005, issued by the first respondent. Thereafter, the proceedings are being taken by the concerned authorities to liquidate the third respondent Society. In such circumstances, this Court is of the considered view that the prayer in the writ petition cannot be granted by this Court. However, it is made clear that it would be open to the petitioner to work out her remedies, in the manner known to law, before the Appropriate Forum or the Authority to recover her dues alleged to be payable by the third respondent Society.

In such view of the matter, the writ petition is dismissed. No costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

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RVL 06.12.2006